

1333.102 General.

(a) Protests must be received within ten work days after the basis for protest is known or should have been known unless good cause is shown to extend the time limit. However, protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing time for receipt of initial proposals shall be filed prior to bid opening or the closing time for receipt of initial proposals. Unless the time limit for receiving the protest is extended for good cause, a protest to the contracting activity which is received after the time limit will not be considered. When a timely protest is filed only with the contracting activity, the contracting officer shall take prompt action toward resolution after consulting with the AGC, and notify the protestor in writing of the action taken.

(b) When a protest is filed only with the contracting activity before award, an award shall not be made until the matter is resolved, unless the head of the contracting office makes the determination prescribed in FAR 33.103(f).

(c) When a protest is filed only with the contracting activity after award, the Contracting Officer need not notify the contractor, if the protest can be promptly resolved. If it appears likely that a protest will be filed with the General Accounting Office (GAO), or other administrative forum, the Contracting Officer should promptly notify the contractor in writing and consider suspending contract performance.

[64 FR 16652, Apr. 6, 1999]

1333.103 Protests to the agency.

(a) When a protester decides to file a protest at the agency level with the Protest Decision Authority, the guidelines set forth in these established agency level protest procedures above the Contracting Officer apply. These procedures are in addition to the existing protest procedures contained in the FAR Part 33.102 and 1333.102 of this subpart.

(1) For purposes of this subpart, a day is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the pe-

riod begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

(2) Protesters using these procedures may protest to the Protest Decision Authority who will make the final decision for the Department. Protests shall be addressed to: (Name, title of the person and address to be inserted by the Contracting Officer in the solicitation). The outside of the envelope or beginning of the FAX transmission must be marked "Agency-level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible Contracting Officer and a copy to: Contract Law Division, Office of the Assistant General Counsel for Finance and Litigation, Department of Commerce, Room H5882, 14th Street and Constitution Avenue, NW, Washington, DC 20230, (FAX Number 202-482-5858).

(3) While a protest is pending at the agency level with the Protest Decision Authority, the protester agrees not to protest to the GAO or any other external fora. If the protester has already filed with the GAO or other external fora, the procedures described here may not be used.

(i) Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 14 days after the basis of the protest is known or should have been known, whichever is earlier.

(ii) To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be